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EXAMINER

HOLLIDAY, JAIME MICHELE

ART UNIT PAPER NUMBER

2686

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/517,538

Applicant(s)

DUPUY ET AL.

Examiner

Jaime M. Holliday

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 5-9 and 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 10-13 is/are rejected.
- 7) ☒ Claim(s) 5-9 and 14-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/09/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on March 19, 2004 has been considered by the Examiner and made of record in the application file.

### ***Drawings***

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because in **figure 1** some items depicted are not clearly labeled and in general the drawing is not clear. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Specification***

3. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.
4. The disclosure is objected to because of the following informalities:

a) On **page 16 line 12**, replace "a" with --an-- after "For instance," in order to correct a grammatical error.

Appropriate correction is required.

### ***Claim Objections***

5. **Claims 5-9 and 14-20** are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and/or cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 102***

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. **Claims 10 and 12-13** are rejected under 35 U.S.C. 102(a) as being anticipated by **Vilppula et al. (Pub # U.S. 2002/0019698 A1)**.

Consider **claim 10**, Vilppula et al. clearly show and disclose positioning methods are connected to the positioning method selection device (PMSD) through an interface **110**. The interface can comprise, for example, a serial port or the like for the connection of an external positioning method, as well as interfaces for positioning methods integrated in the terminal and, for example, for positioning-related services provided by a mobile communication network,

reading on the claimed "mobile equipment having data processing capabilities, comprising:

- at least two position determination devices each capable of delivering position information of the mobile equipment in a specific format," (paragraph 45),
- parameter (or parameters) describing the quality of the positioning data provided by positioning method x is stored in register **115**, where x indicates the positioning method in use and is an integer between 1 and the number of available positioning methods, and the value of the parameter (or parameters) describing the quality actually achieved by the positioning data provided by method x is stored in register **117**, when said positioning method returns the positioning data requested by application n to the PMSD, reading on the claimed "at least two drivers for said position determination devices, each driver being capable of storing and retrieving at least one parameter associated with the position determination device," (paragraphs 48 and 50), and
- control means **111** to **113** control the operation of the various functional blocks of the PMSD as well as data transmission between them. The control means comprise a controller **111**, which can be implemented, for example, as a microprocessor or equivalent means for controlling the functions of the PMSD. The control means further comprise a random access memory **112**; as well as a permanent

memory **113** for storing commands required for the control of the PMSD functions, reading on the claimed “a location handling unit in communication with said drivers and capable of communicating with an application for providing position information, said location handling unit being capable of selecting a position determination device to be used for obtaining position information based on a context information and on the values of said parameters stored in the drivers,” (paragraph 46).

Consider **claim 12**, and **as applied to claim 10 above**, Vilppula et al. further disclose parameters describing the quality of the positioning data provided by positioning method x is stored in register **115**, reading on the claimed “each driver is capable of storing and retrieving at least two different parameters,” (paragraph 48).

Consider **claim 13**, and **as applied to claim 12 above**, Vilppula et al. further disclose parameters describing the quality of the positioning data (Quality of Position QoP), such as the positioning accuracy requested by application n, is stored in a register **114**, reading on the claimed “stored parameter values include at least one among an accuracy value, a response time value and a power consumption value,” (paragraph 47).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. **Claims 1-4 and 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Vilppula et al. (Pub # U.S. 2002/0019698 A1)** in view of **Roel-Ng et al. (U.S. Patent # 6,002,936)**.

Consider **claim 1**, Vilppula et al. clearly show and disclose a method for position determination in which one or more application (**201, 202**) requests a positioning method selection device (**204**), reading on the claimed "mobile equipment," for positioning data. The positioning method selection device provides an application with positioning data using one or more positioning methods (**205 to 209**), reading on the claimed "position determination device," in accordance with settings defined by the application and/or the user, reading on the claimed "method for generating position information in a mobile equipment provided with at least two position determination devices," (abstract and figure 2), the method comprising the following steps:

- maintaining a centralized register on at least one positioning property of said one or more positioning method, reading on the claimed "allocating to each position determination device at least one stored parameter value," (paragraph 15),
- applications defining parameters relating to the positioning data requested, such as a required accuracy or the type and format of the positioning data, reading on the claimed "determining a context information," (paragraph 44),
- automatically determining the best possible positioning method available for use by the terminal's applications, based on requirements specifying the quality of service (Quality of Positioning, QoP) defined by the user or the application, without



- having to know the behavior of the available positioning methods under different conditions, reading on the claimed "depending on the context information, choosing a corresponding position determination device selection process based on the value of said at least one parameter for each position determination device," (paragraph 7), and
- selecting a positioning method for use that fulfils at least one specified condition for selecting a positioning method, reading on the claimed "selecting a position determination device according to the chosen selection process," (paragraph 18).

However, Vilppula et al. do not specifically disclose that the positioning methods are activated upon selection.

In the same field of endeavor, Roel-Ng et al. clearly show and disclose telecommunications method for allowing a cellular network to determine the optimum positioning method, reading on the claimed "method for generating position information," (abstract). When a Requesting Application (RA) **380** sends a positioning request for a particular mobile station (MS) **300** to a Mobile Positioning Center (MPC) **370**, the RA can also include quality of service information, such as data rate and/or reliability of the positioning information returned by the cellular network (MPC) performing the positioning, reading on the claimed "context information," (col. 4 lines 41-49, figure 3). When a positioning request comes in to the MPC, it must then determine the optimum positioning

method, reading on the claimed "position determination device," based upon the available network-based and terminal-based positioning methods and the quality of service requested by the RA, reading on the claimed "depending on the context information, choosing a corresponding position determination device selection process based on the value of said at least one parameter for each position determination device," (col. 5 lines 33-38). Once the positioning method has been chosen, the positioning request, along with the positioning method, is sent to the serving MSC/VLR **350**, which then forwards the positioning requests to a serving Base Station Controller (BSC) **340**. If the MS is idle mode, the serving MSC/VLR must page the MS and setup a call prior to forwarding the request to the BSC, reading on the claimed "activating said selected position determination device," (col. 5 lines 38-46). If the positioning method is a terminal-based positioning method, the BSC sends the positioning request to the MS collects the positioning data, and if the MS has calculation abilities, the MS determines its location, reading on the claimed "method for generating position information in a mobile equipment," (col. 5 lines 56-61).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to page or setup a call to the mobile station in order to activate the terminal-based positioning method as taught by Roel-Ng et al. in the method Vilppula et al., in order to successfully determine the position of a terminal device.

Consider **claim 2**, Vilppula et al., as modified by Roel-Ng et al., disclose the claimed invention **as applied to claim 1 above**, and in addition, Vilppula et al. further disclose parameters describing the quality of the positioning data provided by positioning method  $x$  is stored in register **115**, where  $x$  indicates the positioning method in use and is an integer between 1 and the number of available positioning methods, reading on the claimed "at least two stored parameter values are allocated to each position determination device," (paragraph 48).

Consider **claim 3**, Vilppula et al., as modified by Roel-Ng et al., disclose the claimed invention **as applied to claim 2 above**, and in addition, Vilppula et al. further disclose parameters describing the quality of the positioning data (Quality of Position QoP), such as the positioning accuracy requested by application  $n$ , is stored in a register **114**, reading on the claimed "stored parameter values include at least one among an accuracy value, a response time value and a power consumption value," (paragraph 47).

Consider **claim 4**, Vilppula et al., as modified by Roel-Ng et al., disclose the claimed invention **as applied to any one of claims 1 to 3 above**, and in addition, Vilppula et al. further disclose that a user can define parameters relating to position determination directly to the PMSD through the user interface instead of giving definitions separately to each application. The user can define, for example, the accuracy with which applications receive positioning data or which positioning method the user prefers to use as the first-choice positioning method,

reading on the claimed "ranking the position determination devices depending on the chosen selection process," (paragraph 56) and the PMSD makes use of its monitoring capability to select the best possible positioning method for each of the sequence of requests, reading on the claimed "selecting an available position determination device of best rank," (paragraph 53).

Consider **claim 11**, and **as applied to claim 10 above**, Vilppula et al. clearly show and disclose the claimed invention except that the positioning methods, reading on the claimed "position determination devices," are cell-based, satellite-based and beacon-based.

In the same field of endeavor, Roel-Ng et al. clearly show and disclose telecommunications method for allowing a cellular network to determine the optimum positioning method, reading on the claimed "method for generating position information," (abstract). The Mobile Positioning Center (MPC) must choose the optimum positioning method available that can be network-based, e.g. Timing Advance method, Time of Arrival method, or Angle of Arrival method, or terminal based, e.g., Global Positioning System method, Observed Time Difference method, or Enhanced OTD method, reading on the claimed "position determination devices are selected from the group comprising cell-based positioning devices, satellite-based positioning devices and beacon-based positioning devices," (col. 4 lines 50-59).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use network-based or terminal-based


positioning methods as taught by Roel-Ng et al. in the method Vilppula et al., in order to successfully determine the position of a terminal device.


### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaime M. Holliday whose telephone number is (571) 272-8618. The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Patent Examiner

  
NICK CORSARO  
PRIMARY EXAMINER